IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3468 OF 2006

Sharif Habib Khan & Ors. ...Applicants

Vs.

State of Maharshtra & Anr. ...Respondents

Shri Chetan Akerkar for the Applicants.

Shri S.R.Shinde, A.P.P for the Respondent No.1- State.

Ms Suvarna Telgote for the Respondent No.2.

CORAM : A. S. OKA, J.
DATE : OCTOBER 11, 2006.

JUDGMENT:

1. Rule. The learned A.P.P waives service for the first Respondent. The learned Advocate for the second Respondent waives service. Taken up for hearing forthwith.

2. The second Respondent lodged F.I.R against the Applicants alleging commission of offences under section 406, 498-A read with section 34 of the Indian Penal Code. The marriage between the second Respondent and the Applicant was solemnised on 10th July, 2002. The other Applicants are members of the family of the first Applicant. It is stated in the Application that there is a complete settlement between the parties and therefore, a prayer is made for quashing the

prosecution. There are two affidavits filed by the second Respondent. In the affidavit dated 18th September, 2006, the second Respondent has stated thus:

> "I say that the settlement arrived at with the Applicants is genuine and in the interests of both the parties. I further say that I am not interested in continuing with the proceedings being CC No.4221/PW/05 pending in the 22nd Court of Metropolitan Magistrate, Andheri, Mumbai and I have no objection whatsoever if the said proceedings are quashed".

There is a further affidavit dated 04th October, 2006 in which the second Respondent has reiterated what has been stated in the first affidavit. The apology tendered in the second affidavit is accepted and no further action is called for.

3. Thus, it is obvious that F.I.R lodged by the second Respondent was a result of the matrimonial dispute between the first Applicant and the second Respondent. In the affidavit dated 18th September, 2006, the second Respondent has admitted that her

marriage with the first Applicant has been dissolved and a divorce deed has been duly executed. It is also stated that the property claimed by her is already returned to her by the Applicants. The learned Advocate for the second Respondent states that the second Respondent is personally present in the court today.

4. It is thus obvious that continuation of prosecution will cause sheer harassment to both the parties. Therefore, a case is made out for exercising power under section 482 of the Code of Criminal Procedure, 1973.

3. Hence, I pass the following order:

. Rule is made absolute in terms of prayer clause (i) of paragraph No.9.

JUDGE